



Prior to the Commission hearing, an evidentiary hearing was held by the Commission Chair on November 21, 2011. At the evidentiary hearing, evidence was proffered by the Defendant Murray Companies concerning damages to the 6 West Longwall Panel of the Murray Companies' property. All of the evidence proffered by the Defendant Murray Companies was determined by the Chair to be inadmissible pursuant to the Court's Orders of September 15, 2011 (ECF No. 1035) and November 16, 2011 (ECF No. 1056). The Defendant then stipulated that it had no further evidence that it intended to offer at the Commission hearing concerning damages to the 6 West Longwall Panel. Both parties further stipulated that the ruling of the Chair at the evidentiary hearing was final, not preliminary, and both parties waived participation in the Commission hearing. The parties further agreed that the Commission hearing would be held on November 22, 2011.

## **II. Report of the Commission**

At the Commission hearing no evidence of damages to the 6 West Longwall Panel was presented to the Commission by the Defendant Murray Companies. Pursuant to applicable law and the Court's Order establishing the Commission (ECF No. 597), the defendant bears the burden of proof to establish damages to the residue of property, including damages to underlying mineral interests (ECF No. 597 "Burden of Proof"). The Commission finds that the Murray Companies, having presented no evidence of damages to the 6 West Longwall Panel, suffered no compensable damages.

## **III. Conclusion and Recommendation**

The Commission unanimously recommends that the Court find no damages to the 6 West Longwall Panel of the Murray Companies' property.

/s/ Gregory M. Travalio  
Gregory M. Travalio  
Commission Chair

/s/ James Trifelos  
James Trifelos  
Member

/s/ G. Franklin Hinkle, II  
G. Franklin Hinkle, II  
Member